

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BRITTANY JONES, Individually	)	
and on behalf of those	)	
similarly situated,	)	
	)	
Plaintiff,	)	
	)	Case No. 2:17-cv-00571-JFC
v.	)	
	)	
SAMSUNG ELECTRONICS AMERICA,	)	Chief Judge Conti
INC.,	)	
	)	
Defendant.	)	<i>Electronically Filed</i>
	)	

**DECLARATION OF JOY MCBETH**

I, Joy McBeth, declare as follows:

1. I make this declaration based on personal knowledge and based on my leadership and sales experience in the telecommunications wireless service/mobile device industry. If called to testify, I could and would testify to the following facts.

2. I am a Senior Manager of Launch Marketing Operations at Samsung Electronics America, Inc. ("SEA"). I have held this position from December 2016 through the present. Prior to this position, I was a Manager of Launch Marketing from April 2010 to December 2016, first at Samsung Telecommunications America, LLC ("STA") and then, after that entity's 2015 merger into SEA, at SEA.

3. I have reviewed the allegations in Plaintiff's Complaint. I am familiar with SEA's business practices relating to the sale of the Galaxy S3 smartphone.

4. SEA markets and sells mobile phones in the United States. Beginning in June 2012, SEA marketed and sold a smartphone in the United States known as the Galaxy S3 (“the S3”).

5. SEA has adopted a Limited Warranty and Dispute Resolution Procedure for its smartphones, including the S3. As described more fully below, SEA’s Limited Warranty provides that the S3 is free from defects in material and workmanship under normal use and service, and it provides for the repair or replacement of smartphones under certain circumstances. Under the terms of the Dispute Resolution Procedure, customers agree to arbitrate all claims against Samsung arising in any way from their smartphone’s Limited Warranty or from the sale, condition, or performance of their smartphone. Customers also agree to waive the right to bring any claims as part of a class action. The Dispute Resolution Procedure provides that a customer whose claim is for \$5,000 or less will never pay more than \$50 in arbitration fees unless the claim was brought in bad faith, and provides for an award of attorneys’ fees to prevailing customers. Customers may opt out of the Dispute Resolution Procedure within 30 days of purchase by emailing or calling Samsung.

6. The S3’s packaging alerted buyers and users to Samsung’s Limited Warranty and Dispute Resolution Procedure, as described more fully below.

7. I understand that Plaintiff alleges that she purchased an S3 in September 2013, and that her counsel has informed Samsung that her wireless carrier was Sprint.

8. All S3 devices sold in the United States for use on the Sprint network were sold packaged in a box that was labeled on the outside to advise customers: “This Box Includes: . . . [an] Important Information Booklet.” A true and correct electronic copy of a photograph showing the text printed on the S3 box is attached as Exhibit A.

9. The Important Information Booklet, which was included in the packaging of all S3 devices sold in the United States for use on the Sprint network, included the terms of SEA's Limited Warranty and Dispute Resolution Procedure. A true and correct electronic copy of the version of the Important Information Booklet packaged with S3s sold in September 2013 is attached as Exhibit B.

10. The Important Information Booklet has 63 pages, which are approximately 3 inches long and 5 inches wide. On its title page, in large, bold font, the booklet declares that it contains **"Important Information for the Samsung SPH-L710,"** and that purchasers can review the terms of the "Manufacturer's Warranty" on "page 15."

11. Beginning on page 15, the Important Information Booklet lays out the terms of Samsung's Limited Warranty. The booklet provides that Samsung "warrants to the first consumer purchaser ("Purchaser") that SAMSUNG's handsets and accessories ("Products") are free from defects in material and workmanship under normal use and service for the period commencing upon the date of purchase and continuing for the following specified period of time after that date." It then states that the warranty covering the "Phone" lasts "1 Year," and that the warranty is "conditioned upon proper use of the Product."

12. The Important Information Booklet then sets forth additional terms of Samsung's Limited Warranty, including the following provisions:

**What are SAMSUNG's obligations?**

During the applicable warranty period, provided the Product is returned in accordance with the terms of this Limited Warranty, SAMSUNG will repair or replace the Product, at SAMSUNG's sole option, without charge.

...

**What must you do to obtain warranty service?**



To obtain service under this Limited Warranty, you must return the Product to an authorized phone service facility in an adequate container for shipping, accompanied by the sales receipt or comparable proof of sale showing the original date of purchase, the serial number of the Product and the seller's name and address.

To obtain assistance on where to deliver the Product, please call SAMSUNG Customer Care at 1-888-987-4357. If SAMSUNG determines that any Product is not covered by this Limited Warranty, you must pay all parts, shipping, and labor charges for the repair or return of such Product.

...

**What are the limits on SAMSUNG's liability?**

THIS LIMITED WARRANTY SETS OUT THE FULL EXTENT OF SAMSUNG'S RESPONSIBILITIES, AND THE EXCLUSIVE REMEDY REGARDING THE PRODUCTS.

ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE LIMITED TO THE DURATION OF THIS LIMITED WARRANTY. IN NO EVENT SHALL SAMSUNG BE LIABLE FOR DAMAGES IN EXCESS OF THE PURCHASE PRICE OF THE PRODUCT OR FOR, WITHOUT LIMITATION, COMMERCIAL LOSS OF ANY SORT; LOSS OF USE, TIME, DATA, REPUTATION, OPPORTUNITY, GOODWILL, PROFITS OR SAVINGS; INCONVENIENCE; INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES; OR DAMAGES ARISING FROM THE USE OR INABILITY TO USE THE PRODUCT. SOME STATES AND JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, OR THE DISCLAIMER OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS AND DISCLAIMERS MAY NOT APPLY TO YOU.

13. The Important Information Booklet next describes the full terms of Samsung's arbitration provision, beginning on page 19. Under the bolded and underlined heading "**What is the procedure for resolving disputes?**," the Important Information Booklet states:

ALL DISPUTES WITH SAMSUNG ARISING IN ANY WAY FROM THIS LIMITED WARRANTY OR THE SALE, CONDITION OR PERFORMANCE OF THE PRODUCTS SHALL BE RESOLVED EXCLUSIVELY THROUGH FINAL AND BINDING ARBITRATION, AND NOT BY A COURT OR JURY.

Any such dispute shall not be combined or consolidated with a dispute involving any other person's or entity's Product or claim, and specifically, without limitation of the foregoing, shall not under any circumstances proceed as part of a class action. The arbitration shall be conducted before a single arbitrator, whose award may not exceed, in form or amount, the relief allowed by the applicable law.

14. The Important Information Booklet further provides that "arbitration shall be conducted according to the American Arbitration Association (AAA) Commercial Arbitration Rules applicable to consumer disputes," that "[t]he laws of the State of Texas, without reference to its choice of laws principles, shall govern the interpretation of the Limited Warranty and all disputes that are subject to this arbitration provision," and that "[t]he arbitrator shall decide all issues of interpretation and application of this arbitration provision and the Limited Warranty."

15. Samsung's arbitration provision contains protections to ensure that customers can cost-effectively pursue individual claims. These provisions provide that, "[f]or any arbitration in which your total damage claims, exclusive of attorney fees and expert witness fees, are \$5,000.00 or less ("Small Claim"), the arbitrator may, if you prevail, award your reasonable attorney fees, expert witness fees and costs as part of any award, but may not grant SAMSUNG its attorney fees, expert witness fees or costs unless it is determined that the claim was brought in bad faith. In a Small Claim case, you shall be required to pay no more than half of the total administrative, facility and arbitrator fees, or \$50.00 of such fees, whichever is less, and SAMSUNG shall pay the remainder of such fees."

16. The "**What is the procedure for resolving disputes?**" section of the Important Information Booklet also lays out the opt-out provision, in bolded text, beginning on page 20:

**You may opt out of this dispute resolution procedure by providing notice to SAMSUNG no later than 30 calendar days from the date of the first consumer purchaser's purchase of the Product. To opt out, you must send notice by e-mail to [optout@sta.samsung.com](mailto:optout@sta.samsung.com), with the subject line: "Arbitration Opt Out." You must include in the opt out e-mail (a) your name**

and address; (b) the date on which the Product was purchased; (c) the Product model name or model number; and (d) the IMEI or MEID or Serial Number, as applicable, if you have it (the IMEI or MEID or Serial Number can be found (i) on the Product box; (ii) on the Product information screen, which can be found under “Settings;” (iii) on a label on the back of the Product beneath the battery, if the battery is removable; and (iv) on the outside of the Product if the battery is not removable). Alternatively, you may opt out by calling 1-888-987-4357 no later than 30 calendar days from the date of the first consumer purchaser’s purchase of the Product and providing the same information. These are the only two forms of notice that will be effective to opt out of this dispute resolution procedure. Opting out of this dispute resolution procedure will not affect the coverage of the Limited Warranty in any way, and you will continue to enjoy the benefits of the Limited Warranty.

17. Samsung maintains records concerning all consumers who elect to opt out of the arbitration agreement. Samsung employees searched the opt-out records, and I reviewed the findings of that search with those employees. No opt-out records were found for Plaintiff.

18. Attached as Exhibits C and D are true and correct copies of photographs that show the S3 Sprint box with the outer packaging sleeve. As shown by the ruler in the photographs, the box is approximately 6.5 inches long and 4 inches wide.

19. The Important Information Booklet has 63 numbered pages. Attached hereto as Exhibits E and F are true and correct copies of photographs showing the Important Information Booklet next to a ruler, which shows the Important Information Booklet to be approximately 3 inches long and 5 inches wide.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: July 17, 2017



---

Joy McBeth  
Senior Manager of Launch Marketing  
Operations  
Samsung Electronics America, Inc.